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ATTORNEYS FOR Debtor

The following constitutes
the order of the court. Signed October 30, 2013

A handwritten signature in black ink that reads "Stephen L. Johnson".

Stephen L. Johnson
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:
272 E SANTA CLARA GROCERY, LLC,
Debtor.

Case No. 13-53491

CHAPTER 11

**ORDER GRANTING MOTION TO
SELL REAL PROPERTY (272 E. Santa
Clara St.) FREE AND CLEAR OF LIENS
AND PAY BROKER/AGENT**

Date: October 29, 2013

Time: 1:30 p.m.

Place:

**280 S. First Street, Crt. Rm. 3099
San Jose, CA 95113**

Judge: Hon. Stephen L. Johnson

The Court, having read and considered the MOTION TO SELL REAL PROPERTY (272 E. Santa Clara St.) FREE AND CLEAR OF LIENS AND PAY BROKER/AGENT ("Motion") filed by Debtor 272 E SANTA CLARA GROCERY, LLC, Debtor and Debtor-in-possession herein, ("Debtor") and having found good cause, does hereby grant the Motion and therefore:

IT IS ORDERED, ADJUDGED, and DECREED that:

(1) Notice of the motion was proper and adequate given the circumstances;

(2) Debtor is authorized to sell Debtor's real property commonly known as 272 E Santa Clara Street, San Jose, California, Santa Clara County Assessor's Parcel Number 467-24-111

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**ORDER GRANTING MOTION TO SELL REAL PROPERTY (272 E. Santa Clara St.) FREE AND CLEAR OF LIENS AND PAY
BROKER/AGENT**

1 (“Property”) to Vittore A. Nino Barbieri and Anna Maria Barbieri, Trustees of The Barbieri
2 Family Trust (or their assigns) (“Buyer”) free and clear of liens of Santa Clara County Tax
3 Assessor and Boston Private Bank & Trust Company (formerly known as Borel Private Bank &
4 Trust Company) pursuant to Bankruptcy Code 363 (b), (c), and (f) (1-5), Bankruptcy Code 506,
5 506 (d), and Bankruptcy Rules 6004 and 3012 pursuant to the Purchase Agreement and Debtor is
6 authorized to assume and assign a March 8, 2012 lease (“Lease”) of Debtor’s real property
7 commonly known as 272 E Santa Clara Street, San Jose, California, Santa Clara County
8 Assessor’s Parcel Number 467-24-111 (“Property”) to Vittore A. Nino Barbieri and Anna Maria
9 Barbieri, Trustees of The Barbieri Family Trust (or their assigns) (“Buyer”) free and clear of liens
10 of Santa Clara County Tax Assessor and Boston Private Bank & Trust Company (formerly
11 known as Borel Private Bank & Trust Company);

12 (3) Notwithstanding and as clarification of the foregoing, the sale of the Property is
13 subject to the existing lease with tenant Grocery Outlet LLC, dated March 8, 2012 (“Lease”),
14 which will be assumed and assigned pursuant to a separate motion and order filed concurrently
15 herewith and as further clarification of the Purchase Agreement (which is the subject of the
16 Motion) no financing will be used for Buyer’s purchase of the Property and the Lease shall not be
17 subordinate to any new financing, except as set forth in the provisions of the Lease;

18 (4) The court does not make a finding that the sale is the highest and best offer;

19 (5) Debtor is authorized to enter into and approve the Purchase Agreement and to
20 undertake such other actions as may be reasonably necessary to complete the sale;

21 (6) Debtor is authorized to pay at escrow and from the sale proceeds: (i) the customary
22 closing and associated costs of sale in Santa Clara County as provided by the Purchase
23 Agreement; (ii) sales commissions pursuant to the October 17, 2013 Order Approving Ex Parte
24 Application to Employ Broker/Agent (Doc#85) of four percent (4%) payable at two percent (2%)
25 to Paul Melnyk and Sperry Van Ness | SV Advisors (“Broker/Agent”) as seller’s broker/agent and
26 two percent (2%) to Kidder Mathews as Buyer’s broker/agent; (iii) United States Trustee
27 Quarterly Fees; (iv) the amounts owed to the secured liens of the Santa Clara Tax Assessor,
28 estimated by Debtor at approximately \$247,595.95; and (v) to Boston Private Bank & Trust

1 Company ("BPB"), the sum of \$3,341,017.20 which is asserted by the Debtor to be the
2 undisputed amount of principal owed to BPB under its secured claim. The amount of said sum
3 as the principal owed to it is disputed by BPB, and this payment is without prejudice to BPB's
4 claims for additional sums it contends are owed to it for principal, interest or other obligations
5 secured by its liens against the Property. The foregoing payments are to be made unless the
6 holders of the liens, claims or interests identified have agreed to other treatment. The liens,
7 claims or interests of said claimants (including the additional amounts which BPB contends it is
8 owed) shall attach to the proceeds of the sale with the same force, effect, validity and priority that
9 previously existed against the Property. Debtor is authorized to file or record or cause to be filed
10 termination statements, instruments of satisfaction, releases of liens and any other documents
11 necessary for the purpose of documenting the release of specified liens from the Property;

12 (7) The net sale proceeds remaining after payment of the sums set forth in paragraph 6
13 above are to be held in a blocked Debtor-in-Possession account ("DIP Account") subject to those
14 deeds of trust and other liens of record (including the liens of BPB) asserted against the Property
15 and subject to further order of this court to be entered prior to any distribution upon notice to
16 interested parties;

17 (8) The provisions of Bankruptcy Rule 6004 (h) are waived; and

18 (9) Bankruptcy court jurisdiction to implement the sale, enforce the sale order, or resolve
19 any disputes with or related to the sale, the sale proceeds and any entitlement thereto is reserved.

20 ***End of Order***

21
22 **APPROVED AS TO FORM:**

23 UNITED STATES TRUSTEE

24 By: /s/ John S. Wesolowski

25 John S. Wesolowski

Attorneys for United States Trustee

Dated: October 29, 2013

26 ALLEN MATKINS LECK GAMBLE

27 MALLORY & NATSIS LLP

By: /s/ Thor D. McLaughlin

Thor D. McLaughlin

28 Attorneys for Grocery Outlet, Inc.

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ORDER GRANTING MOTION TO SELL REAL PROPERTY (272 E. Santa Clara St.) FREE AND CLEAR OF LIENS AND PAY

1 Dated: October 29, 2013

2 HOPKINS&CARLEYALC

3 By: /s/ Stephen J. Kottmeier

4 Stephen J. Kottmeier

Attorneys For Boston Private Bank & Trust Company

Dated: October 29, 2013

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Court Service List

All ECF Recipients